

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID HOLMES,

Plaintiff,

vs

9:06-CV-919

HAUGEN and TRUE, Correctional Officers,
Eastern Correctional Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

DAVID HOLMES
02-A-6067
Eastern Correctional Facility
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Napanoch, NY 12458

HON. ANDREW M. CUOMO
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Attorney for Defendants
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Albany, New York 12224

CHARLES J. QUACKENBUSH, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

ORDER

Plaintiff, David Holmes, brought this civil rights action pursuant to 42 U.S.C.

§ 1983. In a Report Recommendation dated January 24, 2009, the Honorable Randolph F. Treece, United States Magistrate Judge, recommended that plaintiff's motion for summary judgment be denied, and that defendants' cross-motion for summary judgment be granted.

Objections to the Report Recommendation have been filed by the plaintiff.

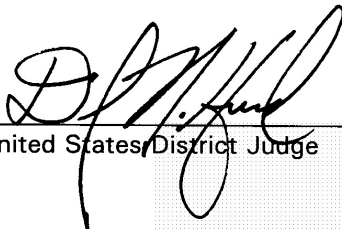
Based upon a de novo review of the portions of the Report-Recommendation to which the plaintiff has objected, the Report-Recommendation is accepted and adopted. See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that

1. Plaintiff's motion for summary judgment is DENIED;
2. Defendants' cross-motion for summary judgment is GRANTED;
3. The complaint is DISMISSED in all respects; and
4. The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.


United States District Judge

Dated: March 18, 2008
Utica, New York.